

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23108 of 2004

Between:

Mirza Nawab Baig, S/o. Late Mirza Osman Baig,
R/o. 12-1-925/12/5/2, Old Mallepally, Feelkhana,

Hyderabad.

... PETITIONER

AND

1 The Chairman, APDCL, Vidyut Soudha, Somajiguda,

Hyderabad.

2 Addl. Asst. Electrical Engineer,

Distribution/XIE/II/Hyderabad,

Mint Compound, Hyderabad.

3 The Superintending Engineer, Operation Circle, II Mint

Compound , A.P. Transco, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for the records relating to impugned initial assessment Notice (Pilferage) bearing Lr.No. A.O. 14855 dated 17-11-2004 amounting to Rs. 31,674.02 Ps and set aside the same by holding it as illegal, arbitrary and consequently direct the Respondents not to disconnect the Electricity supply in the premises of Petitioner bearing No. 12-1-925/12/5/2, situated at Old Mallepally, Feelkhana, Hyderabad.

Counsel for the Petitioner: MR.MOHD.QASIM

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court made the following :

ORDER:

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The petitioner is a domestic consumer of electricity. He has been issued an order of provisional assessment, dated 17.11.2004, alleging that he has resorted to acts of pilferage valued at Rs.31,674/-. The petitioner challenges the same.

The petitioner states that he has paid half of the demanded amount on 27.11.2004 and despite the same, the respondents are threatening to disconnect the supply, if the balance is not paid.

Heard learned counsel for the petitioner and learned counsel for the respondents.

As on today, the petitioner is issued only an order of provisional assessment. According to the existing terms and conditions of supply, it has to be followed by a show-cause notice and it is only when an order of final assessment is passed, the petitioner can be said to be liable to pay any amount. A Division Bench of this Court through its order, dated 24.08.2004, in W.P.No.15033 of 2004, held that the consumer cannot be fastened with any liability on the basis of an order of provisional assessment.

In that view of the matter, the writ petition is disposed of directing the respondents not to disconnect the power supply to the petitioner on the ground of non-payment of the amount indicated in the order of provisional assessment. The power supply to the petitioner shall be continued as long as he pays the actual consumption charges. His liability on the alleged ground of pilferage would arise only when an order of final assessment is passed. There shall be no order as to costs.

14.12.2004

Jsu

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To

1 The Chairman, APDCL, Vidyut Soudha, Somajiguda,

Hyderabad.

2 Addl. Asst. Electrical Engineer,

Distribution/XIE/II/Hyderabad,

Mint Compound, Hyderabad.

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